

## NOTICE OF INTENT

Department of Environmental Quality  
Office of Environmental Assessment  
Environmental Planning Division

### Procedures for Public Records Requests (LAC 33:I.2303-2309) (OS048)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Office of the Secretary regulations, LAC 33:I.2303-2309 (Log #OS048).

The proposed rule will modify the uniform fee schedule by adding rates for color copies and reproduced audiotapes and videotapes, setting an hourly rate fee and reduced rate for generating computer reports, and noting no fees for certification of copies or viewing records. These changes establish fees for record copy formats now available, clarifying the cost of the extended staff time required for producing reports from databases. The uniform fee schedule table will be reconstructed to display the regular and reduced fees in separate columns for clarity. The proposed rule will modify the procedure to allow receiving public record requests in electronic form so that requesters have a quick, easy method of delivering requests. The rule continues to exclude requests as e-mail attachments as protection against computer viruses. The proposed rule will extend exceptions to the standard operating procedures. There is a waiver for requiring LDEQ Form ISD-0005-01 for copies prepared for sale to the public. If records must leave the premises, they can be accompanied by someone designated by the department. This allows the Custodian of Records to appoint Records Management contract staff, who have many records management responsibilities, to go with the record to the outside source copy provider. The Custodian of Records' approval is changed from required to may be required for copies delivered by facsimile.

When rules were last promulgated, no clearly-defined records management program existed in DEQ. Now that the functioning records management system is an integral part of DEQ business, the existing regulations are not adequate and we have identified the changes needed, including the different fees required because of the distinct nature of some record copy requests. The basis and rationale for this rule are to bring the regulations up to date with the department's record management system capabilities and procedures, particularly dealing with electronic records and information, and expanding services for public records requests.

This proposed rule meets an exception listed in R.S. 30:2019.D.(2) and R.S. 49:953.G.(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on March 27, 2003, at 1:30 p.m. in the Maynard Ketcham Building, Room 326, 7290 Bluebonnet Boulevard, Baton Rouge, LA 70810. Interested persons

are invited to attend and submit oral comments on the proposed amendments. Attendees should report directly to the hearing location for DEQ visitor registration, instead of to the security desk in the DEQ Headquarters building. Should individuals with a disability need an accommodation in order to participate, contact Lynn Wilbanks at the address given below or at (225) 765-0399.

All interested persons are invited to submit written comments on the proposed regulations. Persons commenting should reference this proposed regulation by OS048. Such comments must be received no later than April 3, 2003, at 4:30 p.m., and should be sent to Lynn Wilbanks, Regulation Development Section, Box 82178, Baton Rouge, LA 70884-2178 or to FAX (225) 765-0389 or by e-mail to [lynnw@deq.state.la.us](mailto:lynnw@deq.state.la.us). Copies of this proposed regulation can be purchased by contacting the DEQ Records Management Section at (225) 765-0843. Check or money order is required in advance for each copy of OS048.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 7290 Bluebonnet Boulevard, Fourth Floor, Baton Rouge, LA 70810; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 201 Evans Road, Building 4, Suite 420, New Orleans, LA 70123; 111 New Center Drive, Lafayette, LA 70508; 104 Lococo Drive, Raceland, LA 70394 or on the Internet at <http://www.deq.state.la.us/planning/regs/index.htm>.

James H. Brent, Ph.D.  
Assistant Secretary

**Title 33**  
**ENVIRONMENTAL QUALITY**  
**Part I. Office of the Secretary**  
**Subpart 1. Departmental Administrative Procedures**

**Chapter 23. Procedures for Public Record Requests**

**§2303. Policy**

A. The department shall implement the fee schedule in LAC 33:I.2309 when providing copies of public records requested by the public.

~~B. The department reserves the right to deny any request that is so burdensome as to interfere with the operation of the constitutional and legal duties of the custodian of records.~~

~~C. No copies shall be provided to any requester who appears on the Accounts Receivable Past Due report until all past due amounts have been paid.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq., 44:1 et seq., and 30:2043 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

**§2305. Standard Operating Procedures**

A. All requests for copies of public records, including discovery requests and subpoenas duces tecum for production of ~~original~~ public records, shall be made using LDEQ Form FSD-0005-01. A certification on LDEQ Form FSD-0005-02 shall be submitted with the request ~~if for~~ free or reduced rate copies ~~are requested~~. Completed forms may be submitted in person, by mail, ~~or by facsimile, or other approved method~~. No other request (~~e.g., e-mail, telephone, telegram~~) will be honored. ~~Completion of the DEQ Form FSD-0005-01 is waived only if the records requested are prepared by the department specifically for sale to the public (e.g., Environmental Regulatory Code).~~ Copies of the forms may be obtained through the DEQ department's website at [www.deq.state.la.us](http://www.deq.state.la.us) or from the Office of Management and Finance, department's Custodian of Records.

~~B. – C. . . .~~

D. In order to ensure the preservation of ~~official~~ department records, no records shall leave the premises ~~for duplication~~, whether accompanied by agency personnel or otherwise.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:

**§2307. Exceptions to Standard Operating Procedures**

A. The following procedures shall apply to persons requesting copies of public records under an exception to standard operating procedures.

~~A. All requests for copies of public records shall be made using DEQ Form FSD-0005-01.~~

~~B. 1. Requests for exceptions to standard operating procedures must shall be approved in advance by the department's Custodian of Records in the Office of Management and Finance.~~

~~2. All requests for copies of public records shall be made using LDEQ Form ISD-0005-01 unless the records were prepared for sale to the public, e.g., Environmental Regulatory Code.~~

B. Specific Exceptions

1. Exception to LAC 33:I.2305.C. Copies of public records may be requested and delivered by facsimile. The copies may be sent upon receipt of a facsimile of the payment check or money order, pending receipt of the actual payment.

a. Custodian of records' approval and credit approval may be required prior to providing copies by facsimile.

b. If payment is not received within 10 working days, the requester's name will appear on an Accounts Receivable Past Due report maintained by the Office of Management and Finance, Financial Services Division.

c. No copies shall be provided to any requester who appears on the Accounts Receivable Past Due report until all past due amounts have been paid.

2. Exception to LAC 33:I.2305.D. Oversize and color records that must be duplicated by an outside source copy provider, due to unavailability of suitable copying equipment within the department, may leave the premises by approval of the custodian of records.

a. The document shall be accompanied by an official, employee, agent, or contractor of the agency who shall remain with the document until its return.

b. The requester shall be responsible for all costs of reproduction.

The requester shall:

i. make payment or arrangements for payment with the outside source copy provider in advance of the request for the exception; and

ii. include a statement of such arrangements as part of the request.

c. The department reserves the right to approve the outside source copy provider and to refuse the release of public records to an outside source copy provider.

~~C. The only exception to LAC 33:I.2305.D is for large maps that must be duplicated by an outside source copy provider, due to unavailability of suitable copying equipment within the department. In this case, the document shall be accompanied by a department employee who shall remain with the document until its return.~~

~~1. When public records are taken by department personnel to an outside source copy provider as an exception to LAC 33:I.2305.D, the requester shall be responsible for all costs of reproduction. The requester shall make payment or arrangements for payment with the outside source copy provider in advance of the request for the exception, and shall include a statement of such arrangements as part of the request. The department reserves the right to approve the outside source copy provider and to refuse the release of original public records to an outside source copy provider.~~

2. ~~—— A request for any exception to LAC 33:I.2305.D other than that specified in this Subsection shall be submitted to the secretary, deputy secretary, or undersecretary for consideration and approval.~~

~~D.—— When payment of an invoice for copies of public records provided by facsimile, as an exception to standard operating procedure, is not received in the Office of Management and Finance, Financial Services Division within 10 working days, the requester's name will appear on an Accounts Receivable Past Due report maintained by the Financial Services Division. No copies shall be provided to any requester who appears on the Accounts Receivable Past Due report until all past due amounts have been paid. Custodian of Records approval is required, and credit approval may be required, prior to providing copies by facsimile.~~

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:429 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2442 (November 2000), LR 29:

### §2309. Uniform Fee Schedule

Item	Cost
Regular Fees:	
One-sided Copy (any size)	\$ .25 page
Two-sided Copy (any size)	\$ .50 page
Reduced Fees (Form FSD-0005-02 completed):	
One-sided Copy (any size)	\$ .05 page
Two-sided Copy (any size)	\$ .10 page
Computer Reports (Copy of existing computer generated report):	
One-sided Copy (any size)	\$ .25 page
Two-sided Copy (any size)	\$ .50 page
Requests for Proposal (RFP) [Current request only]	No Charge
Copies printed and produced by outside sources (Request made by DEQ employees) (DNR Print Shop, LSU Press, DOA Printing, etc.)	As determined by the cost statement
Reproduced VCR Tapes	Cost of tape and production
Computer Generated Report/Map that requires data processing time* (Disk/CD will be provided by DEQ) *Cost to include personnel, supplies, etc.	Determined on each request
Facsimile, per page ** A cover sheet and an invoice shall be included in the faxed material at no charge	\$1.00 per page**
Copy of Established File on Personal Computer (Disk/CD will be provided by DEQ) (Charges include processing time)	\$5.00 per Disk/CD
Postage and Handling	Actual Cost

Item	Regular Fee	Reduced Fee
Copy	\$ .25 per one-sided page	\$ .05 per one-sided page
	\$ .50 per two-sided page	\$ .10 per two-sided page
Copy, Color	\$1.00 per one-sided page	\$ .50 per one-sided page
Copy of existing electronic file	\$ .25 per one-sided page paper copy	\$ .05 per page paper copy

<u>Item</u>	<u>Regular Fee</u>	<u>Reduced Fee</u>
	<u>\$.50 per two-sided page paper copy</u>	<u>\$.10 per page paper copy</u>
<u>(Disk/CD will be provided by the department)</u>	<u>Cost of Disk/CD for electronic copy</u>	<u>Cost of Disk/CD for electronic copy</u>
<u>Computer-generated report/map that requires data processing time*</u> <u>(Disk/CD will be provided by the department)</u> <u>*Cost to include personnel, supplies, etc.</u>	<u>\$25.00 per hour + cost of disk/CD</u>	<u>\$5.00 per hour + cost of disk/CD</u>
<u>Copies printed and produced by outside sources at the request of the department (LSU Press, DOA Printing, etc.)</u>	<u>As determined by the cost statement</u>	<u>As determined by the cost statement</u>
<u>Facsimile, per page</u> <u>**A cover sheet and an invoice shall be included in the faxed material at no charge.</u>	<u>\$1.00 per page**</u>	<u>\$1.00 per page**</u>
<u>Reproduced videotape</u>	<u>Cost of tape</u>	<u>Cost of tape</u>
<u>Reproduced audiotape</u>	<u>Cost of tape</u>	<u>Cost of tape</u>
<u>Postage &amp; Handling</u>	<u>Actual cost</u>	<u>Actual cost</u>
<u>Viewing records, certification of record copies, or copies of Requests for Proposal (RFP)</u>	<u>No charge</u>	<u>No charge</u>

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:950 et seq. and 44:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Management and Finance, Fiscal Services Division, LR 25:430 (March 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 29:

**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

LOG #: OS048

Person

Preparing

Statement: Wendy McLainPhone: 765-0328Dept. Environmental QualityOffice: Office of Environmental Assessment

Return

Address: P.O. Box 82231  
Baton Rouge, LA 70884-2231

Rule

Title: Procedures for Public Records Requests  
LAC 33:I.2303-2309

Date Rule

Takes Effect: Upon Promulgation**SUMMARY**

(Use complete sentences)

In accordance with Section 953 of Title 49 of the Louisiana Revised Statutes, there is hereby submitted a fiscal and economic impact statement on the rule proposed for adoption, repeal or amendment. THE FOLLOWING STATEMENTS SUMMARIZE ATTACHED WORKSHEETS, I THROUGH IV AND WILL BE PUBLISHED IN THE LOUISIANA REGISTER WITH THE PROPOSED AGENCY RULE.

**I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

No significant implementation costs or savings to state or local governmental units are expected as a result of this rule.

**II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)**

There will be no impact on local governmental revenue. Overall, a modest decrease in state revenue is anticipated as a result of this rule change. Four copy categories have been added which allow newly specified fees to cover color copies, audiotape and videotape copies, and generating computer reports, rather than as "determined by cost." These fee changes are anticipated to be relatively revenue neutral. An expected modest decrease in state revenues is expected to result from new reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

**III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NON-GOVERNMENTAL GROUPS (Summary)**

An economic benefit to directly affected persons or non-governmental groups is expected as a result of reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

**IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)**

No effect on competition and employment is expected as a result of this rule.

\_\_\_\_\_  
Signature of Agency Head or Designee

James H. Brent, Ph.D., Assistant Secretary  
Typed Name and Title of Agency Head or Designee

\_\_\_\_\_  
LEGISLATIVE FISCAL OFFICER OR  
DESIGNEE

\_\_\_\_\_  
Date of Signature

LFO 7/1/94

\_\_\_\_\_  
Date of Signature



**FISCAL AND ECONOMIC IMPACT STATEMENT  
FOR ADMINISTRATIVE RULES**

The following information is requested in order to assist the Legislative Fiscal Office in its review of the fiscal and economic impact statement and to assist the appropriate legislative oversight subcommittee in its deliberation on the proposed rule.

- A. Provide a brief summary of the content of the rule (if proposed for adoption or repeal) or a brief summary of the change in the rule (if proposed for amendment). Attach a copy of the notice of intent and a copy of the rule proposed for initial adoption or repeal (or, in the case of a rule change, copies of both the current and proposed rules with amended portions indicated).

The proposed rule will modify the uniform fee schedule by adding rates for color copies and reproduced audiotapes and videotapes, setting an hourly rate fee and reduced rate for generating computer reports, and noting no fees for certification of copies or viewing records. These changes establish fees for record copy formats now available, clarifying the cost of the extended staff time required for producing reports from databases. The uniform fee schedule table will be reconstructed to display the regular and reduced fees in separate columns for clarity.

The proposed rule will modify the procedure to allow receiving public record requests in electronic form so requesters have a quick, easy method of delivering requests. The rule continues to exclude requests as e-mail attachments as protection against computer viruses.

The proposed rule will extend exceptions to the standard operating procedures.

- There is a waiver for requiring LDEQ Form ISD-0005-01 for record copies prepared for sale to the public.
- If records must leave the premises, they can be accompanied by someone designated by the department. This allows the Custodian of Records to appoint Records Management contract staff, who have many records management responsibilities, to go with the record to the outside source copy provider.
- The Custodian of Records' approval is changed from required to may be required for copies delivered by facsimile.

- B. Summarize the circumstances which require this action. If the Action is required by federal regulation, attach a copy of the applicable regulation.

When rules were last promulgated, no clearly defined records management program existed in DEQ. Now that the functioning records management system is an integral part of DEQ business, the existing regulations are not adequate, and we have identified the changes needed, including the different fees required because of the distinct nature of some record copy requests.

- C. Compliance with Act II of the 1986 First Extraordinary Session

(1) Will the proposed rule change result in any increase in the expenditure of funds? If so, specify amount and source of funding.

The proposed rule change will not result in any increase in the expenditure of funds.

2) If the answer to (1) above is yes, has the Legislature specifically appropriated the funds necessary for the associated expenditure increase?

(a) \_\_\_\_ Yes. If yes, attach documentation.

(b) \_\_\_\_\_

No. If no, provide justification as to why this rule change should be published at this time.

**FISCAL AND ECONOMIC IMPACT STATEMENT****WORKSHEET****I. A. COSTS OR SAVINGS TO STATE AGENCIES RESULTING FROM THE ACTION PROPOSED**

1. What is the anticipated increase (decrease) in costs to implement the proposed action?

<u>COSTS</u>	<u>FY 02-03</u>	<u>FY 03-04</u>	<u>FY 04-05</u>
PERSONAL SERVICES			
OPERATING EXPENSES			
PROFESSIONAL SERVICES			
OTHER CHARGES			
EQUIPMENT			
TOTAL	0	0	0
MAJOR REPAIR & CONSTR.			
POSITIONS (#)			

2. Provide a narrative explanation of the costs or savings shown in "A.1.", including the increase or reduction in workload or additional paperwork (number of new forms, additional documentation, etc.) anticipated as a result of the implementation of the proposed action. Describe all data, assumptions, and methods used in calculating these costs.

No significant implementation costs or savings are expected as a result of this rule.

3. Sources of funding for implementing the proposed rule or rule change.

<u>SOURCE</u>	<u>FY 02-03</u>	<u>FY 03-04</u>	<u>FY 04-05</u>
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
DEDICATED			
FEDERAL FUNDS			
OTHER (Specify)			
TOTAL	0	0	0

4. Does your agency currently have sufficient funds to implement the proposed action? If not, how and when do you anticipate obtaining such funds?

DEQ currently has sufficient funds to implement the proposed action.

**B. COST OR SAVINGS TO LOCAL GOVERNMENTAL UNITS RESULTING FROM THE ACTION PROPOSED.**

1. Provide an estimate of the anticipated impact of the proposed action on local governmental units, including adjustments in workload and paperwork requirements. Describe all data, assumptions and methods used in calculating this impact.

No significant costs or savings are expected as a result of this rule.

2. Indicate the sources of funding of the local governmental unit which will be affected by these costs or savings.

This is not applicable.

**FISCAL AND ECONOMIC IMPACT STATEMENT****WORKSHEET****II. EFFECT ON REVENUE COLLECTIONS OF STATE AND LOCAL GOVERNMENTAL UNITS**

- A. What increase (decrease) in revenues can be anticipated from the proposed action?

REVENUE INCREASE/DECREASE	FY 02-03	FY 03-04	FY 04-05
STATE GENERAL FUND			
AGENCY SELF-GENERATED			
RESTRICTED FUNDS*			
FEDERAL FUNDS			
LOCAL FUNDS			
TOTAL	0	0	0

\*Specify the particular fund being impacted.

- B. Provide a narrative explanation of each increase or decrease in revenues shown in "A." Describe all data, assumptions, and methods used in calculating these increases or decreases.

There will be no impact on local governmental revenue. Overall, a modest decrease in state revenue is anticipated as a result of this rule change. Four copy categories have been added which allow newly specified fees to cover color copies, audiotape and videotape copies, and generating computer reports, rather than as "determined by cost." These fee changes are anticipated to be relatively revenue neutral. An expected modest decrease in state revenues is expected to result from new reduced copy fees paid by indigent citizens or persons using copies strictly for a public purpose.

**III. COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS**

- A. What persons or non-governmental groups would be directly affected by the proposed action? For each, provide an estimate and a narrative description of any effect on costs, including workload adjustments and additional paperwork (number of new forms, additional documentation, etc.), they may have to incur as a result of the proposed action.

The four categories with new reduced fees provide lower costs for indigent citizens of this state or the persons whose use of such copies will be limited to a public purpose, including, but not limited to, use in a hearing before any governmental regulatory commission.

- B. Also provide an estimate and a narrative description of any impact on receipts and/or income resulting from this rule or rule change to these groups.

There should be no impact on receipts and/or income.

**IV. EFFECTS ON COMPETITION AND EMPLOYMENT**

Identify and provide estimates of the impact of the proposed action on competition and employment in the public and private sectors. Include a summary of any data, assumptions and methods used in making these estimates.

No impact on competition and employment is anticipated.